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April 12, 2007

57739-000020

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

Re: Service Rules for the 698-746, 747-762 and 777-792 MHz Bands (WT Docket No. 06-150); Implementing a Nationwide, Broadband Interoperable Public Safety Network in the 700 MHz Band (PS Docket No. 06-229); and Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Communications Requirements Through the Year 2010 (WT Docket No. 96-86)

Dear Ms. Dortch

On April 11, 2007, Mark Stachiw, Senior Vice President, General Counsel and Secretary of MetroPCS Communications, Inc. ("MetroPCS"), accompanied by Carl Northrop and Michael Lazams of Paul, Hastings, Janofsky & Walker LLP, met with Barry Gottlieb, legal advisor to Commissioner Copps. In a separate meeting on the same day, Mark Stachiw, Carl Northrop, and Lawrence Sidman of Paul, Hastings, Janofsky & Walker LLP met with Commissioner Adelstein and his legal advisor Barry Ohlson to discuss the above-referenced proceedings.

MetroPCS made an oral presentation as summarized in the attached handout, copies of which were distributed at the meeting. In addition, MetroPCS discussed its opposition to combinatorial, or package, bidding, as set forth in its filings in WT Docket No. 06-150.

Kindly refer any questions in connection with this letter to the undersigned

Respectfully submitted,



Michael Lazams  
of PAUL, HASTINGS, JANOFSKY & WALKER LLP

cc: (via email) Commissioner Adelstein  
Commissioner Copps  
Barry Ohlson  
Barry Gottlieb

**PRESENTATION OF  
METROPCS COMMUNICATIONS, INC.**

WT DOCKET NO. 06-150 (700 MHz)  
PS DOCKET NO. 06-229 (Public Safety)  
WT DOCKET NO. 96-86 (Public Safety)

**METROPCS COMMUNICATIONS, INC.**  
8144 WALNUT HILL LANE, SUITE 800  
DALLAS, TEXAS, 75231

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April 11, 2007

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THE FRONTLINE PROPOSAL SERVES ITS PRIVATE COMMERCIAL INTERESTS,  
NOT THE PUBLIC INTEREST OR THE INTERESTS OF PUBLIC SAFETY

- THE FRONTLINE PROPOSAL CONTRAVENES SECTION 337 OF THE COMMUNICATIONS ACT, AND PUBLIC SAFETY WOULD BE WORSE OFF – NOT BENEFITED – BY THE FRONTLINE PROPOSAL
  - The Frontline proposal allows an unknown commercial entity to co-opt spectrum that is dedicated by law to public safety under Section 337 of the Communications Act
    - There can be no assurance that the best licensee to construct and operate a public safety network will be the high bidder on the E Block
  - Network technology and topology used by public safety would be dictated by an unknown commercial entity based on its own commercial interests - - not public safety's interests
  - Infrastructure build-out priorities and coverage would be driven by commercial needs and by available financial resources, not by public safety requirements
    - The proposed Frontline construction requirements do not require robust coverage; non-metropolitan areas may never be built
    - The first build-out deadline is more than five years away

- Conversion from a geographic coverage test to a population based test results in substantially less geographic coverage
  - **75%** of population coverage may result in only about 15% of geographic coverage
- No assurance that the E Block winner will have sufficient funding to construct and operate the combined network
  - The cost of the spectrum may be only 1/3 or less of the total funds necessary
- Funding for a dedicated public safety network could be forestalled by the potentially illusory promise of Frontline to build a public safety network

- THE FRONTLINE PROPOSAL IS PURPOSEFULLY DESIGNED TO DETER OTHER POTENTIAL BIDDERS THEREBY EARMARKING 10 MHz OF SCARCE SPECTRUM FOR FRONTLINE
  - Frontline's 11th hour proposal contains auction and service rules designed to fit its own nationwide wholesale, carrier-to-carrier business plan. If adopted, it would reduce dramatically, perhaps to only one company, itself, the number of bidders competing for what otherwise would be highly sought after and valuable spectrum
    - Modifying the Frontline proposal may reduce to zero the applicants who would bid on the spectrum
    - A Nationwide license would deter many smaller, regional and rural bidders
  - The proposal contains "poison pills" designed to discourage incumbent commercial carriers from seeking this 10 MHz Block (e.g., restrictions on retail operations, mandated automatic roaming on all spectrum held by the winner; Carterfone network access rules, designated entity provisions) and thereby depress the auction price for this block
    - This is not the appropriate forum, nor is there adequate time in this docket, for the Commission to properly assess all of the ramifications of changing its policies governing network access, designated entity wholesale rights, roaming service obligations, etc.
    - These "poison-pills" could lead to legal challenges which could delay the 700 MHz auction or put a legal cloud over the auction

- **The public interest is not served by conducting auctions under a serious legal cloud**
  - **This may deter bidders and result in a winner who does not value the spectrum as much as other potential bidders**
- **The Government should not earmark spectrum for Frontline or ratify one private party's business plan**

- FRONTLINE IS PROPOSING A RISKY, UNTESTED PUBLIC-PRIVATE SCHEME
  - The essential interoperable public safety network would be reliant on a risky, experimental wholesale business plan – which could fail
  - Wholesale business plans (e.g. NextWave) have failed in the past with disastrous effects
  - The Frontline proposal to give public safety priority access to commercial spectrum only during times of emergency poses severe implementation issues during a large-scale or multi-agency response
  - The commercial licensee will be a “for profit” business seeking to maximize the rate of return to its investors which creates an irresolvable tension with the public safety component of the proposal
  - The Frontline proposal will face serious financial, technological, and legal challenges
    - Not clear whether financial markets would support this business plan
    - It is unclear whether Frontline needs 20 MHz to be successful - - and what happens if 20 MHz is not necessary or not available (due to lack of agreements)

- OTHER BENEFITS PUT FORTH BY FRONTLINE ARE ILLUSORY
  - The roaming rights would be of little value to existing carriers
    - No assurance that the rates would be reasonable
    - No assurance that network coverage would be equal to other CMRS carriers
    - Roaming would be delayed until the E Block licensee builds its system which could be over **5** years from today for just coverage
    - No assurance that the network would be compatible with all roaming partners
  - Carterfone Rule may not yield any benefits
    - The Commission already is accepting comment on a Carterfone proposal put forth by Skype for all wireless services; this issue is better resolved in a separate proceeding where a full record will be created on the issue
    - No need for Carterfone rules for CMRS where retail competition is robust
    - As proposed, Carterfone would only apply to the E Block licensee, not its customers



- o Proponents are incorrect to suggest that the Frontline proposal will foster greater participation by rural carriers and women and minority businesses in licensing through spectrum leases
  - Not clear how spectrum leasing would work in conjunction with proposed DE rule changes
  - No assurance that nationwide E Block licensee is any more likely to lease spectrum to third parties than other nationwide carriers

- THE NATION'S CRITICAL PUBLIC SAFETY INFRASTRUCTURE SHOULD NOT BE TURNED OVER TO A MONOPOLY SERVICE PROVIDER WHOSE PRIMARY OBJECTIVE IS TO EARN A PROFIT
  - The creation by the Commission of a regulated monopoly to provide critical communications service is fundamentally inconsistent with sound communications policy, particularly when public safety is the service at issue
  - The Frontline proposal leaves public safety at the mercy of negotiations with a monopoly commercial provider, under rules that create powerful disincentives for the commercial operator to reach agreement with public safety
    - Requiring bidders to have agreements prior to being eligible to participate may create other serious implementation problems
  - Continuous Commission oversight would be required to regulate the commercial/public safety relationships proposed by Frontline.
    - Past regulation of this nature has been a nightmare (e.g., the 800 MHz rebanding process); the result will be continuing delays in meeting public safety's needs
  - There can be no assurance who the ultimate monopoly service provider would be or whether it will truly be committed to Public Safety

- THE FCC PROPOSAL FOR AN INTEROPERABLE BROADBAND NETWORK DEDICATED TO PUBLIC SAFETY USE IN **12 MHz** OF THE EXISTING **24 MHz** PUBLIC SAFETY **700 MHz** ALLOCATION IS PREFERABLE
  - Public safety networks in both New York City and Washington, DC show that interoperable broadband networks can work with **12 MHz** of spectrum or less
    - The issue is not so much amount, but interoperability and deployment to all potential users of the system
  - Existing commercial wireless operations demonstrate that **10 MHz** can support diverse broadband services to a large population of users; and **2.5 MHz** of paired spectrum is sufficient to provide broadband data rates.
    - Most of the use will be localized - - similar to the peak busy hours in commercial systems - - proper design and deployment will meet the needs of first responders in an emergency
  - In all, **99.7 MHz** of spectrum currently is allocated for public safety (nearly **35 times** the spectrum, on a per user basis, than the average nationwide wireless carrier has now). This will meet public safety needs if used properly.
    - The key is to either establish technical standards which all licensees must abide by (e.g., AMPS-like standard) or to allocate dedicated public safety spectrum on a nationwide basis to a single public safety licensee trust
  - The Frontline proposal forces public safety licensees to share the existing public safety spectrum; this flies in the face of the public safety claims that public safety needs more – not less -- spectrum.

- FCC CONSIDERATION OF THE OPPORTUNISTIC, 11TH-HOUR FRONTLINE PROPOSAL RISKS REDUCING AUCTION REVENUE AND UNDERMINING THE DTV TRANSITION
  - The questionable legality of the Frontline proposal will foster litigation and delay and will cause the auction to be conducted under a serious legal cloud that will discourage participation and depress values
  - Any reduction of the revenue from the 700 MHz spectrum auction threatens funds which Congress already has allocated for important programs (**\$7.363** billion - deficit reduction; \$1.5 billion – analog/digital converter boxes; \$1billion - public safety interoperability grants; **\$156** million - national alert and tsunami warning system; **\$43.5** million - advanced E911 service)
  - The Frontline proposal could force Congress (under the PayGo rules) to make cuts to other important government programs or raise taxes to offset the shortfall in auction revenues
  - It is key to remember that during the congressional debate on the Deficit Reduction Act of 2005, the projected **700** MHz auction revenue allowed Congress not to have to make further cuts to the Medicare program.
  - Jeopardizing the DTV transition is particularly unwise in the absence of a groundswell of support for Frontline from diverse members of the Public Safety Community

- CONSIDERATION OF THE LATE-FILED FRONTLINE PROPOSAL WHEN THE STATUTORY DEADLINE IS LOOMING TO COMMENCE THE 700 MHZ AUCTION VIOLATES THE SPIRIT IF NOT THE LETTER OF SECTION 309(J)(3)(E) OF THE COMMUNICATIONS ACT
  - In enacting Section **309(j)(3)(E)**, Congress clearly stated “to ensure that scarce spectrum is put to its highest and best use, the Commission is ...required to allow an adequate period of time before each auction (1)to permit parties to comment on proposed auction rules, and (2) after the issuance of such rules, to ensure that interested parties have sufficient time to develop business plans, assess market conditions.. .”
    - Chairman Martin has properly recognized that bidders need 6 months after the FCC releases its rules to prepare for an auction; time is running out
  - If the FCC were to fully consider the extremely complex Frontline proposal now, and afford it the significant comment period required under the Administrative Procedure Act, the FCC risks failing to meet the statutory deadlines for the 700 MHz auction to commence and for the proceeds to be deposited in the DTV transition fund

PUBLIC SAFETY DESERVES A NETWORK DEDICATED TO ITS EXCLUSIVE USE THAT IS DESIGNED AND CONTROLLED BY THE PUBLIC SAFETY COMMUNITY AND SECURELY FUNDED; NOT A NETWORK DEPENDENT UPON THE UNTESTED BUSINESS PLAN AND LARGESS OF AN UNKNOWN MONOPOLY OPERATOR WHO IS SEEKING A PROFIT